

JUN 03 2010

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MELQUIADES AGUAYO-PEREZ,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 07-74949

Agency No. A079-145-376

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted May 25, 2010**

Before: CANBY, THOMAS, and W. FLETCHER, Circuit Judges.

Melquiades Aguayo-Perez, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' ("BIA") order affirming an immigration judge's ("IJ") decision terminating Aguayo-Perez's conditional lawful permanent residence. We have jurisdiction under 8 U.S.C. §1252. We review for

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

substantial evidence the agency's factual findings. *See Nakamoto v. Ashcroft*, 363 F.3d 874, 881 (9th Cir. 2004). We deny in part and dismiss in part the petition for review.

Substantial evidence supports the agency's determination that Aguayo Perez's marriage was not entered into in good faith, because in addition to the lack of supporting documents, testimony revealed material discrepancies between the husband's and wife's descriptions of their life together. *See Oropeza-Wong v. Gonzales*, 406 F.3d 1135, 1148 (9th Cir. 2005); *see also* 8 C.F.R. § 216.4(a)(5) (application for removal of conditions on residency shall be accompanied by documentation showing that the marriage was not entered into for the purpose of evading immigration laws).

We lack jurisdiction to review Aguayo-Perez's challenge to the IJ's denial of a continuance, as he did not exhaust that contention before the BIA. *See Barron v Ashcroft*, 358 F.3d 674, 678 (9th Cir. 2004).

PETITION FOR REVIEW DENIED in part; DISMISSED in part.